



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

|

[REDACTED]
MPA/159904

PRELIMINARY RECITALS

Pursuant to a petition filed August 13, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on September 18, 2014, at Waukesha, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's Prior Authorization request for PCW services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Kelly Townsend

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. Petitioner's primary diagnosis is an ACL tear. She also has co-morbidities of a meniscus tear. On April 23, 2014, she underwent a left knee anterior cruciate ligament reconstruction with tibialis anterior allograft and partial medial meniscectomy surgery.

3. A plan of care and physician orders for PCW services was signed on May 22, 2014. The plan of care and orders relate to PCW services provided to the Petitioner from April 23, 2014 – May 13, 2014.
4. On June 2, 2014, the agency received a PA request for PCW services rendered to the Petitioner from April 23, 2014 through May 13, 2014. No request for backdating was included.
5. Petitioner was discharged from services on May 2, 2014.
6. On July 28, 2014, the agency issued a notice to the Petitioner informing her that the agency denied the PA request for PCW services.
7. On August 13, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The Division only reimburses providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code ch. HFS 107. Personal care worker (PCW) services are subject to prior authorization. Wis. Admin. Code §HFS 107.112.

The authorization request was denied per Wis. Admin. Code § HFS 107.02(3)(c):

(c) Penalty for non-compliance. If prior authorization is not requested and obtained before a service requiring prior authorization is provided, reimbursement shall not be made except in extraordinary circumstances such as emergency cases where the department has given verbal authorization for a service.

As a courtesy to providers, the MA program will backdate a PCW authorization request for up to 14 days to give the provider a chance to evaluate a patient. A provider must request backdating in writing on the PA request. In this case, all of the PCW services were performed prior to the provider obtaining physician orders and prior to the development of a plan of care. A PA request was not submitted until 40 days after the start of PCW services and 31 days after PCW services were completed.

The agency properly denied the PA request.

The provider may not hold the Petitioner liable for the services unless the provider informed the Petitioner, prior to providing any services, that she would be liable if the PA was denied. The pertinent state code provision reads as follows:

(b) Freedom from having to pay for services covered by MA. Recipients may not be held liable by certified providers for covered services and items furnished under the MA program, except for copayments or deductibles under par. (a), if the petitioner identifies himself or herself as an MA recipient and shows the provider the MA identification card.

(c) Prior authorization of services. When a service must be authorized by the department in order to be covered, the recipient may not be held liable by the certified provider unless the prior authorization was denied by the department and the recipient was informed of the recipient's personal liability before provision of the service. ... Negligence on the part of the certified provider in the prior authorization process shall not result in recipient liability.

Wis. Admin. Code §HFS 104.01(12)(b),(c).

Note: a copy of this decision will not be sent to the provider. The Petitioner may send or give a copy of the decision to the provider.

CONCLUSIONS OF LAW

The agency properly denied the PA request.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

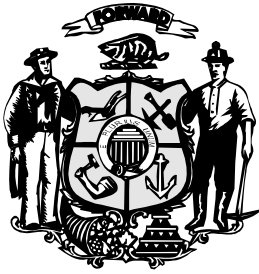
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of October, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 17, 2014.

Division of Health Care Access and Accountability